

OCT 15 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BIZHI LIU,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-72428

Agency No. A099-064-380

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted October 9, 2009^{**}
Pasadena, California

Before: HALL and TALLMAN, Circuit Judges, and LAWSON,^{***} District Judge.

Bizhi Liu petitions for review of the Board of Immigration Appeals's
("BIA") decision to uphold the Immigration Judge's ("IJ") denial of his

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

^{***} The Honorable David M. Lawson, United States District Judge for the Eastern District of Michigan, sitting by designation.

applications for asylum and withholding of removal.¹ We have jurisdiction pursuant to 8 U.S.C. § 1252. We deny the petition.

Liu's untimely asylum application was properly denied because Liu failed to show an exception to the one-year bar was warranted. *See* 8 U.S.C.

§ 1158(a)(2)(B), (D); 8 C.F.R. § 208.4(a)(4)(i)(B). *Thomas v. Gonzales* did not represent a change in law which materially affected his asylum eligibility, given that (1) twenty years' worth of BIA precedent and recent Ninth Circuit cases supported *Thomas's* finding that family could constitute a social group, and (2) the cases suggesting otherwise dealt with more attenuated family relationships than are present here. *See* 409 F.3d 1177, 1184–85, 1187 (9th Cir. 2005), *vacated on other grounds by Gonzales v. Thomas*, 547 U.S. 183, 186–87 (2006); *Estrada-Posadas v. INS*, 924 F.2d 916, 919 (9th Cir. 1991).

Liu was also properly denied withholding relief. Substantial evidence supports the holding that Liu failed to show the government was unable or unwilling to control his attackers, given that the record suggests the police attempted to investigate and that such investigation was feared by the attackers.

¹ Liu's appellate brief does not mention the denial of his CAT claim, and so he has abandoned it. *See Chebchoub v. INS*, 257 F.3d 1038, 1045 (9th Cir. 2001) (noting that issues not supported by argument are deemed abandoned).

See 8 U.S.C. § 1231(b)(3); 8 C.F.R. § 1208.16(b); *Donchev v. Mukasey*, 553 F.3d 1206, 1213 (9th Cir. 2009).

The petition is **DENIED**.